

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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KYTT MACMANUS and SAMANTHA
MACMANUS.,

USDC SDNY
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DOC #: _____
DATE FILED: 6/8/2023

Plaintiffs, :

- against - :

EXPERIAN INFORMATION SOLUTIONS, :
INC.; EQUIFAX INFORMATION SERVICES, :
LLC; TRANS UNION, LLC; and TD BANK, :
N.A., :

Index No.: 7:22-cv-08972 (NSR)

~~PROPOSED~~ DEFAULT
JUDGMENT

Defendants. :

- against - :

DECARLO & DECARLO LLC, :

Third Party Defendant. :

X

AND NOW, this 8th day of June, 2023, upon consideration of Plaintiff's Order to Show Cause for Default Judgment, the Affidavit and exhibits thereto, and any responses and reply and argument submitted in support or opposition to the Order to Show Cause, the Court finds that:

1. Third Party Defendant DeCarlo & DeCarlo LLC ("DeCarlo") was properly served with the summons, complaint, and the other pleadings in this Action. Third Party Defendant DeCarlo received adequate notice of this Action, in satisfaction of due process requirements and as required by Fed. R. Civ. P. 4.
2. Third Party Defendant DeCarlo failed to appear, plead, or otherwise defend against this Action. The requisite time of 21 days between service of the summons and complaint has elapsed.

3. On January 24, 2023, the Clerk of the Court entered a Certificate of Default against Third Party Defendant DeCarlo.

4. DeCarlo is a corporation formed and organized under the laws of the State of New York and therefore is not an infant or incompetent. Nor is DeCarlo, a corporate entity, presently in the military service of the United States.

5. The factual allegations in the Complaint, which are deemed admitted by Third Party Defendant DeCarlo's default establish that DeCarlo is liable for negligence and common law indemnification.

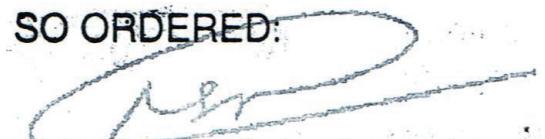
6. On February 22, 2023, Plaintiffs and TD Bank came to a compromise of disputed claims, releasing TD Bank from Plaintiffs' action, with the express understanding that its terms "are not and shall not construed or considered as: (a) an admission of the truth, correctness or validity of any of the MacManuses' Released Claims, or any other claims; (b) an admission by TD Bank or the MacManuses for any other purpose; or (c) evidence of liability" in exchange for \$55,000 (fifty-five thousand dollars). (Settlement Agreement dated February 22, 2023, Ex. D).

7. As a result, TD Bank is to be indemnified through common law, for a sum certain of \$55,000.

8. Accordingly, Third Party Defendants DeCarlo are indebted to TD Bank in the amount of \$55,000.00 as a result of DeCarlo's negligence. (Compl. ¶¶ 4-22, Ex. A).

ORDERED, ADJUDGED AND DECREED that the Third Party Plaintiff TD Bank have judgment against third-party defendant DeCarlo in the liquidated amount of \$55,000, with interest at 9% from November 23, 2022 amounting to \$1,505.34, plus costs and disbursements of this action in the amount of \$0, amounting in all to \$56,505.34. Clerk of Court is directed to terminate the third-party action.

Dated: White Plains, NY
June 8, 2023

SO ORDERED:

HON. NELSON S. ROMÁN
UNITED STATES DISTRICT JUDGE